

### **REMARKS**

The Applicants sincerely appreciate the thorough examination of the present application as evidenced by the first Office Action of September 11, 2007 (the "first Office Action"), and the second Office Action of March 20, 2008 (the "second Office Action"). In particular, the Applicants appreciate the Examiner's withdrawal of all rejections from the first Office Action. In the listing of claims, the Applicants have added new dependent Claims 52-57. In the following remarks, the Applicants will show that all pending claims are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested in due course.

#### **Consideration Of The IDS Of December 10, 2007 Is Requested**

The Applicants properly submitted an Information Disclosure Statement (IDS) on December 10, 2008, with an attached form (including 2 pages) citing 62 references. Copies of the IDS (2 pages) and the attached form (2 pages) were printed from the U.S. Patent Office Public PAIRS system, and these copies that have been printed from the Public PAIRS system are attached. The 2 page form citing the 62 references, however, has not been initialed and returned to formally document consideration of the references cited therein. Accordingly, the Applicants respectfully request that the Examiner initial each of the references on the 2 page form and that the Examiner return a copy of the initialed form to formally document consideration thereof. If any additional issues relating to the IDS of December 10, 2008, should need to be resolved, the Applicants respectfully request that the Examiner contact the attorney for the Applicants (Scott C. Hatfield) by telephone at (919) 854-1400, so that any remaining issues may be resolved before the Patent Office issues further correspondence for this application.

#### **Statement Of The Substance Of The Interview**

The Applicants sincerely appreciate all courtesies extended by Examiner Bokhari during the telephonic interview of May 29, 2008. In particular, the Applicants appreciate the Examiner's indication that he will forward an initialed copy of the form indicating

consideration of all references cited in the Information Disclosure Statement Of December 10, 2008. The Applicants also appreciate the Examiner's consideration of recitations of Claims 1 and 3. The Applicants believe that this paper satisfies all requirements for a Statement of the Substance of the Interview as set forth in 37 C.F.R. Sec. 1.133 and MPEP Sec. 713.04. If the Examiner should believe that any further submission should be required with respect to the telephonic interview of May 29, 2008, the Applicants respectfully request that the Examiner contact the undersigned attorney (Scott C. Hatfield) via telephone at (919) 854-1400.

#### **Claims 1, 23 And 45 Are Patentable Over Kametani**

In the second Office Action, Independent Claims 1, 23, and 45 have been rejected under 35 U.S.C. Sec. 102(e) as being anticipated by U.S. Publication No. 2002/0003803 to Kametani ("Kametani"). The Applicants respectfully submit, however, that Claims 1, 23, and 45 are patentable over Kametani for at least the reasons discussed below. Claim 1, for example, recites a method of operating a data network between a routing gateway for a subscriber and a data service provider providing a data service wherein the routing gateway is at a customer premises remote from the data network, the method comprising:

receiving at the data network from the data service provider an identification of the routing gateway, an identification of the data service provider, and data flow characteristics of the data service for a session of the routing gateway using the data service provided by the data service provider;

responsive to receiving at the data network the identification of the routing gateway, the identification of the data service provider, and the data flow characteristics for the data service, saving the data flow characteristics of the data service for the routing gateway at the data network; and

forwarding the data flow characteristics of the data service from the data network to the routing gateway at the customer premises remote from the data network. (Underline added.)

In support of the rejection of Claim 1, the second Office Action alleges that Kametani discloses:

a method of operating a data network between a routing gateway for a subscriber and a data service provider providing a data service wherein the routing gateway is at a customer premises remote from the data network, the method comprising (Fig. 1,

architecture of the data network, see "the IP network 1 connected between the service providers 8-9 and the user terminal 7" recited in paragraph 0056 lines 1-2, paragraph 0057 lines 1-6 and paragraph 0058 lines 1-19); receiving at the data network from the data service provider an identification of the routing gateway, an identification of the data service provider (Fig. 4, time sequence showing the operation of transmission of packet data from a service provider side to a user terminal, see "upon the receipt of enquiry from the exchange router 4 group of servers 3 check the access list (S205) return the address of access gateway 2 through which information of user terminal 7" recited in paragraph 0071 lines 17-22); data flow characteristics of the data service for a session of the routing gateway using the data service provided by the data service provider (Fig. 4, time sequence showing the operation of transmission of packet data from a service provider side to a user terminal, see "network service provider binds and catalogs identification information, type of service and other information" recited in paragraph 0069 lines 5-12) and responsive to receiving at the data network the identification of the routing gateway, the identification of the data service provider, and the data flow characteristics for the data service, saving the data flow characteristics of the data service for the routing gateway at the data network (Fig. 3, time sequence showing the operation of transmission of packet data from to a user terminal to a service provider side, see "IP header has the source and destination address and upon receipt group server 3 provides protocol information" recited in paragraph 0071 lines 1-22 and paragraph 0072 lines 1-9) and forwarding the data flow characteristics of the data service from the data network to the routing gateway at the customer premises remote from the data network (Fig. 4, time sequence showing the operation of transmission of packet data from a service provider side to a user side terminal, see "the packet is sent from the IP network 1 to the user terminal 7 (S210) through the access gateway 2" recited in paragraph 0075 lines 1-14); .... (Underline added.)

The second Office Action, pages 2-4. The first Office Action conceded, however, that Kametani fails to disclose "Forwarding the data flow characteristics of the data service to the routing as recited in Claim 1." Office Action, page 10.

More particularly, the Applicants maintain that Kametani fails to teach or suggest forwarding data flow characteristics of a data service from a data network to a routing gateway at a customer premises remote from the data network. In particular, different portions of the second Office Action seem to interpret the term "data flow characteristics" differently. For example, when the second Office Action interprets receiving data flow characteristics provided by the data service provider (at page 3, lines 10-15 of the second

Office Action), the second Office Action cites paragraph [0069] lines 5-12 of Kametani. In particular, these cited portions of Kametani state that:

... the end user states, to the network service provider, identification identifiable by individual users, such as an IP network address in the section which utilizes the service. The network service provider binds and catalogs this identification information, type of service, VPN platform used and other information into the group of servers 3. After this cataloging is once carried out, upon the send of a request from the individual user for a desired service through the user terminal 7 to the access gateway 2, the access gateway 2 interprets the demand of the individual user, and sends the results to the IP network 1. (Underline added.)

Kametani, paragraph [0069], lines 5-12, page 4. Accordingly, the second Office Action appears to interpret identification information, type of service, and VPN platform used as data flow characteristics. When the second Office Action interprets forwarding the data flow characteristics to the routing gateway at the customer premises, the second Office Action cites paragraph [0075] lines 1-14 of Kametani. In particular, these cited portions of Kametani discuss "packet data" that is received by the user terminal 7.

Following the analysis of the second Office Action, identification information, type of service, VPN platform used and other information is cataloged to servers 3 (*see*, Kametani, paragraph [0069]), and packet data is received by user terminal 7 (*see*, Kametani, paragraph [0075]). Kametani, however, fails to teach or suggest receiving at a data network data flow characteristics of a data service for a session of a routing gateway using a data service, and forwarding the data flow characteristics from the data network to a routing gateway at a customer premises remote from the data network. Moreover, the Applicants respectfully submit that the access gateway 2 of Kametani is not a routing gateway at a customer premises remote from a data network. In particular, Kametani states that the network service provider provides the IP network 1, the access gateway 2, the group of servers 3, and the exchange router 4. *See*, Kametani, paragraph [0076], page 5.

Accordingly, the Applicants respectfully submit that Claim 1 is patentable over Kametani. In addition, the Applicants submit that Claims 23 and 45 are patentable for reasons similar to those discussed above with respect to Claim 1. Moreover, dependent

Claims 2-11, 24-33, 48, 50-52, 54, and 56 are patentable at least as per the patentability of Claims 1, 23, and 45 from which they depend.

**Claims 19, 41, And 47 Are Patentable Over Kametani**

Claims 19, 41, and 47 have been rejected under 35 U.S.C. Sec. 102(e) as being unpatentable over Kametani. The Applicants respectfully submit, however, that Claims 19, 41, and 47 are patentable over Kametani for at least the reasons discussed below. Claim 19, for example, recites a method of operating a routing gateway providing subscriber use of a data service provided by a data service provider over a data network wherein the routing gateway is at a customer premises remote from the data network, the method comprising:

receiving data flow characteristics of the data service from the data network for a session of the routing gateway using the data service provided by the data service provider wherein the data flow characteristics are received at the routing gateway at the customer premises remote from the data network; and

providing access from the routing gateway at the customer premises to the data service over the data network in accordance with the data flow characteristics received from the data network to support a data session with the data service provider.  
(Underline added.)

In support of the rejection of Claim 19, the second Office Action states that Kametani discloses:

Wherein the data flow characteristics are received at the routing gateway at the customer premises remote from the data network (Fig. 4, time sequence showing the operation of transmission of packet data from a service provider side to a user terminal, see "network service provider binds and catalogs identification information, type of service and other information" recited in paragraph 0069 lines 5-12)....

Second Office Action, page 6. To the extent that the "identification information, type of service, VPN platform used and other information" discussed in paragraph [0069] of Kametani is interpreted as data flow characteristics, the "identification information, type of service, VPN platform used and other information" discussed in paragraph [0069] of Kametani is bound and cataloged into servers 3. See, Kametani, paragraph [0069]. Kametani, however, fails to teach or suggest that the "identification information, type of service, VPN platform used and other information" discussed in paragraph [0069] of

Kametani is received at user terminal 7 for reasons similar to those discussed above with respect to Claim 1.

Assuming for the sake of argument that the "identification information, type of service, VPN platform used, and other information" of Kametani is interpreted as data flow characteristics, Kametani states that the network service provider "binds and catalogs" this information "into the group of servers 3." Moreover, the group of servers 3 carry out management of the IP network 1 of Figure 1 of Kametani, and the group of servers 3 are not at a customer premises. Accordingly, Kametani teaches away from data flow characteristics being received at a routing gateway at a customer premises remote from a data network as recited in Claim 19.

Accordingly, the Applicants respectfully submit that Claim 19 is patentable over Kametani. The Applicants further submit that Claims 41 and 47 are patentable over Kametani for reasons similar to those discussed above with respect to Claim 19. In addition, dependent Claims 20-22, 42-44, 49, 53, 55, and 57 are patentable at least as per the patentability of Claims 19, 41, and 47 from which they depend.

#### **Various Dependent Claims Are Separately Patentable**

Dependent Claims 2-11, 20-22, 24-33, 42-44, and 48-57 are patentable for at least the reasons discussed above with respect to the independent claims from which they depend. Various of these dependent Claims are also separately patentable.

Dependent Claim 3, for example, is separately patentable. Page 16 of the second Office Action states that Claim 3 is rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over Kametani in view of U.S. Patent No. 6,981,029 to Menditto *et al.* ("Menditto"). The Applicants respectfully submit, however, that Claim 3 is patentable over Kametani and Menditto for at least the reasons discussed below.

Claim 3 depends from Claim 1 and thus includes all recitations of Claim 1 as discussed above. In addition, Claim 3 recites that the data flow characteristics of the data service include a bandwidth characterization for the data service and a priority characterization for the data service, and that forwarding the data flow characteristics to the

routing gateway includes forwarding the bandwidth characterization and the priority characterization to the routing gateway at the customer premises remote from the data network.

Regarding Claim 3, the second Office Action concedes that Kametani does not disclose that data flow characteristics of the data service include:

a bandwidth characterization for the data service, a priority characterization for the data service, wherein forwarding the data flow characteristic to the routing gateway includes forwarding the bandwidth characterization and the priority characterization to the routing gateway at the customer premises remote from the data network....

Second Office Action, page 17. In support of the rejection of Claim 3, the second Office Action states that Menditto discloses:

wherein the data flow characteristics of the data service include a bandwidth characterization for the data service (Fig. 8, billing model within the multiple information service provider network, see "the quality of service component of content gateway 18 includes exact amount of bandwidth to be allocated for a specific class of service" recited in column 14 lines 40-48) and a priority characterization for the data service (Fig. 2, a the process of routing information in the internet service provider network, see "content gateway 18 controls different traffic policies of priority characterization for the data service" recited in column 4 lines 57-64), wherein forwarding the data flow characteristic to the routing gateway includes forwarding the bandwidth characterization (Fig. 8, billing model within the multiple information service provider network, see "content gateway 18 dynamically modified the packet received with the quality of service value according to the content policy before the packet is forwarded to the identified server" recited in column 14 lines 29-40) and the priority characterization to the routing gateway at the customer premises remote from the data network (Fig. 2, a the process of routing information in the internet service provider network, see "content gateway 18 consults the content gateway directory and routes the request to specified server" recited in column 4 lines 48-56).... (Underline added.)

Second Office Action, pages 19-20. Cited portions of Menditto state that:

An important advantage of content gateway 18 is essentially control. This is because different traffic policies and differentiated services may be signaled to content gateway 18 causing, for example, packets between content gateway 18 and the origin server to receive high priority. (Underline added.)

Menditto, col. 4, lines 57-61. Other cited portions of Menditto state that:

The quality of service component of content gateway 18 leverages L2/L3 quality of service features to provide differentiated service to qualified HTTP requests. This may include utilizing class based weighted fair queuing to allow specifying an exact amount of bandwidth to be allocated for a specific class of traffic tied to defined queue limits and drop policies. (Underline added.)

Menditto, col. 14, lines 41-48.

Assuming for the sake of argument that Menditto discusses forwarding a bandwidth characterization and/or priority characterization to a content gateway 18 as alleged by the Office Action, Menditto fails to teach or suggest forwarding bandwidth and/or priority characterizations to a routing gateway at a customer premises remote from a data network as recited in Claim 3 because the content gateway 18 of Menditto is included in an information service provider. In particular, Menditto discusses control at a content gateway 18, and the content gateway 18 is not at a customer premises remote from a data network. As discussed with respect to Figure 1 of Menditto, information service provider 12 includes one or more content gateways 18 (*see*, Menditto, col. 2, lines 39-43), and content gateway 18 provides routing and processing at an edge of request content processing network 10 (*see*, Menditto, col. 2, lines 53-55). As shown in Figure 1, the content gateway 18 is included at the information service provided 12 and not at a customer premises remote from a data network. Moreover, Figure 4 of Menditto shows content gateway 18 is included in Information Service Provider 12 (and not in customer network 13), Figure 7 of Menditto shows content gateways 18a, 18b, and 18c as portions of Information Service Provider A, and Figure 8 of Menditto shows that content gateway 18a as a portion of Information Service Provider A. Accordingly, Menditto teaches away from forwarding bandwidth and priority characterizations to a routing gateway at a customer premises remote from the data network.

The Applicants thus submit that Claim 3 is separately patentable over the combination of Kametani, Nassar, and Menditto. The Applicants further submit that dependent Claims 21, 25, 43, 48, and 49 are separately patentable for reasons similar to those discussed above with respect to Claim 3. Moreover, dependent Claims 52-57 are patentable at least as per the patentability of Claims 3, 21, 25, 43, 48, and 49 from which they depend.



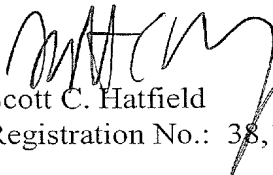
Attorney Docket No. 9400-50  
Application Serial No. 10/722,194  
Filed: November 25, 2003  
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The Applicants further submit that dependent Claims 52-57 are also separately patentable. In particular, the Applicants submit that the cited art fails to teach or suggest forwarding/receiving bandwidth characterization and priority characterization over a digital subscriber line as set forth in Claims 52-57.

### CONCLUSION

Accordingly, the Applicants submit that all pending claims of the present application are in condition for allowance, and a Notice of Allowance is respectfully requested in due course. The Examiner is encouraged to contact the undersigned attorney by telephone should any additional issues need to be addressed.

Respectfully submitted,



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#### CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on June 19, 2008.



Tracy Wallace

Attorney Docket No. 9400-50

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Maria Adamczyk, et al.

Application No.: 10/722,194

Filed: November 25, 2003

For: Methods of Providing Data Services Over Data Networks and Related Data  
Networks, Data Service Providers, Routing Gateways and Computer Program  
Products

Confirmation No.: 6752

Group Art Unit: 2609

Examiner: Syed M. Bokhari

Date: December 10, 2007

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**COPY**

**INFORMATION DISCLOSURE STATEMENT  
PURSUANT TO 37 C.F.R. §1.97(c)**

Sir:

Attached is a list of documents, together with a copy of any listed foreign patent document and/or non-patent literature. A copy of any listed U.S. patent and/or U.S. patent application publication is not provided herewith in accordance with 37 C.F.R. § 1.98(a)(2)(ii).

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. § 1.97(c), before final Office Action or Allowance, whichever is earlier.

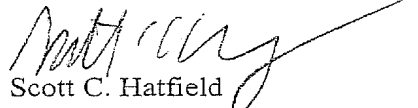
In accordance with the requirements of 37 C.F.R. § 1.97(c)(1), the following Certification as specified in 37 C.F.R. § 1.97(e) is made:

In accordance with the requirements of 37 C.F.R. § 1.97(c)(2), a check for the \$180.00 fee specified in 37 C.F.R. § 1.17(p) is enclosed. This amount is believed to be correct. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

In re: Maria Adamczyk, et al.  
Application No.: 10/722,194  
Filed: November 25, 2003  
Page 2

It is requested that these documents be considered by the Examiner and officially made of record in accordance with the provisions of 37 C.F.R. §1.56 and Section 609 of the MPEP.

Respectfully submitted,

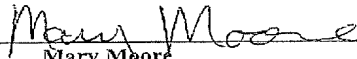
  
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Signature: \_\_\_\_\_

  
Mary Moore

# INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 2

## Complete if Known

Application Number	10/722,194
Filing Date	November 25, 2003
First Named Inventor	Maria Adamczyk, et al.
Group Art Unit	2609
Examiner Name	Syed M. Bokhari
Attorney Docket Number	9400-50

## U.S. PATENTS AND PATENT PUBLICATIONS

Examiner Initials*	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code (if known)		
	1.	US-2007/0112956	A1	Chapman et al.	05/17/2007
	2.	US-2007/0100981	A1	Adamczyk et al.	05/03/2007
	3.	US-7,171,485	B2	Roach et al.	01/30/2007
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Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

# **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

(use as many sheets as necessary)

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## **Complete if Known**

Application Number	10/722,194
Filing Date	November 25, 2003
First Named Inventor	Maria Adamczyk, et al.
Group Art Unit	2609
Examiner Name	Syed M. Bokhari
Attorney Docket Number	9400-50

## **U.S. PATENTS AND PATENT PUBLICATIONS**

Examiner Initials*	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code (if known)		
	54.	US-2003/0074445	A1	Roach et al.	04/17/2003
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## **OTHER NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T
	74.	About the DSL Forum "Who We Are: Staff" Retrieved from the Internet 08/03/2007 at URL <a href="http://www.dslforum.org/about/staff.shtml">http://www.dslforum.org/about/staff.shtml</a>	
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Examiner Signature

Date Considered

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.